

AGENDA MEMO

CITY COUNCIL MEETING DATE: JANUARY 21, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: SUP-28810 - APPLICANT: IMRAN KHUWAJA - OWNER: JOE BAHNAN

THIS ITEM WAS HELD IN ABEYANCE FROM THE NOVEMBER 5, 2008 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.

**** CONDITIONS ****

The Planning Commission (4-0 vote) recommends DENIAL. Staff recommends APPROVAL subject to:

Planning and Development

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for Beer/Wine/Cooler Off-Sale Establishment use, including parking requirements.
2. Conformance to the conditions for Rezoning (Z-0066-64), if approved.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. Approval of this Special Use Permit does not constitute approval of a liquor license.
5. The sale of individual containers of any size of beer or wine coolers is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted.
6. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Special Use Permit for a proposed Beer/Wine/Cooler Off-Sale Establishment within an existing General Retail Store at 2981 East Charleston Boulevard. The proposed alcohol use will operate in conjunction within an existing 3,592 square-foot General Retail Store. The proposed use satisfies all of Title 19.04 minimum Special Use Permit Requirements; therefore, staff recommends approval of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
02/27/63	The Board of City Commissioners approved a request for Rezoning (Z-0156-62) from R-E (Residence Estates) and R-2 (Medium Low Density Residential) to C-1 (Limited Commercial).
07/21/65	The Board of City Commissioners approved a request for Rezoning (Z-0066-64) from C-1 (Limited Commercial) to M (Industrial). The Planning Commission and staff recommended approval.
04/04/07	The City Council denied a request for a Special Use Permit (SUP-19340) for an Accessory Package Liquor Off-Sale Establishment in conjunction with an existing retail business. The Planning Commission recommended approval on 03/08/07. Staff also recommended approval.
08/14/08	The Planning Commission voted 4-0 to recommend DENIAL (PC Agenda Item #49/ds).
<i>Related Building Permits/Business Licenses</i>	
10/06/98	A building permit (#98020070) was issued to demo a wall. The permit was finalized on 11/2/98.
10/03/06	A building permit (#6006232) was issued to replace a rollup door with a glass door.
01/11/08	Business licenses (C-15-00357, C05-02588) were issued to operate a General Retail Store, and to allow tobacco sales at 2981 E. Charleston Blvd.
01/18/08	A building permit (#106229) was issued for a wrought iron fence/wall. The permit has not been finalized.
01/31/08	A business license (P02-01064) was issued for a Parking Lot to allow for customer and vendors to park without interference to general traffic at 2981 E. Charleston Blvd.
05/21/08	A business license (I-07-91391) was issued to allow an ice cream truck to operate from 2981 E. Charleston Blvd.
06/12/08	A business license (I07-91371) was issued to allow an ice cream truck to operate from 2981 E. Charleston Blvd.
06/26/08 (filed)	A business license (I07-92614) was issued to allow an ice cream truck to operate from 2981 E. Charleston Blvd. The license request is still pending.

<i>Pre-Application Meeting</i>	
06/17/08	A pre-application meeting with the applicant was held to discuss Title 19 and submittal requirements for the Special Use Permit.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	

<i>Field Check</i>	
07/10/08	A field check of the site was conducted. Several banners were hung along the top perimeter of the building advertising assorted products, making it difficult to distinguish the name of the business. The trash dumpster was located to the side of the main entrance in front of a parking space. Additionally, numerous ice cream trucks were parked to the south of the building within a gated area. The city of Las Vegas Code Enforcement has discussed Title 19 violations (case #67882) with the property owner, who will work to resolve the discrepancies cited. Additionally, Business Licensing and Planning Department staff is working with the property owner to resolve discrepancies involving required parking and excess spaces available for lease for the ice cream trucks. A letter has been sent to the property owner to clarify Title 19 requirements.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.51

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	General Retail Store	LI/R (Light Industry/Research)	M (Industrial)
North	Auto Repair Shop	LI/R (Light Industry/Research)	M (Industrial)
South	Apartments	R-4 (Multi-family Residential- High Density): Clark County	CT (Commercial Tourist): Clark County
East	Shopping Center	LI/R (Light Industry/Research)	M (Industrial)
West	Apartments	H (High Density Residential)	C-2 (General Commercial)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
Trails		X	N/A

Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance	X		Y

INTERAGENCY ISSUES

Pursuant to Ordinance #5477, the proposed Special Use permit request has been deemed a "Project of Regional Significance," as it concerns property located within 500 feet of the city boundary with Clark County. A questionnaire describing the impacts of the project to the area was submitted to various regional agencies for review. As of 7/31/08, no comments have been received.

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirements							
Use	Gross Floor Area	Required			Provided		Compliance
			Parking		Parking		
		Parking Ratio	Regular	Handicap	Regular	Handicap	
Retail	5,056 SF*	1:175	27	2	37	2	Y
TOTAL			29		39		Y

* The square footage (5,056) is the total building size split between two (2) General Retail Stores (one business is the proposed site (convenience store); the other is retail sales of audio equipment). The parking requirements are shared by the two businesses.

ANALYSIS

The proposed Special Use Permit is a request to provide Beer/Wine/Cooler Off-Sale within a General Retail (convenience store) establishment at 2981 E. Charleston Blvd. This use will operate within a 3,592 square-foot portion of a commercial building. As there are no protected uses within the required 400-foot distance separation and this meets the intent of the M (Industrial) zoning district, staff is recommending approval of this request.

- **Zoning**

This project is located within an M (Industrial) zoning district. The M district is intended to provide for heavy manufacturing industries in locations where they will be compatible with and not adversely, impact adjacent land uses. This district is intended to be located away from all residential development. The M (Industrial) District is consistent with the Light Industry/Research category of the General Plan.

- **Use**

A Beer/Wine/Cooler Off-Sale Establishment is defined by Title 19 as an establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine or coolers to consumers only and not for resale, in original sealed or corked containers, for the consumption off the premises where the same are sold, and is operated in connection with a grocery store, convenience store, or specialty merchandise store. Beer/Wine/Cooler Off-Sale cannot be located within 400-feet of any church, synagogue, school, childcare facility licensed for more than 12 children or City Park. The subject location does not have any of these protected uses within the required 400-foot distance separation.

- **Minimum Special Use Requirements**

- *1. Except as otherwise provided, no beer/wine/cooler off-sale establishment (hereinafter “establishment”) shall be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City Park.
- *2. Except as otherwise provided in Requirement 3 below, the distance referred to in Requirement 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term “property line” refers to property lines of fee interest parcels and does not include the property line of:
 - a. Any leasehold parcel; or
 - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.
- *3. In the case of an establishment proposed to be located on a parcel of at least 80 acres in size, the minimum distances referred to in Requirement 1 shall be measured in a straight line:
 - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or

- b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property line of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
- 4. When considering a Special Use Permit application for an establishment, which also requires a waiver of the distance limitation in Requirement 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reason in support of the decision.
- 5. The minimum distance requirement in Requirement 1 do not apply to:
 - a. An establishment which has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992, or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992; or
 - b. A proposed establishment having more than 50,000 square-feet of retail floor space.
- *6. All businesses, which sell alcoholic beverages, shall conform to the provisions of LVMC Chapter 6.50.
- 7. The minimum distance requirements set forth in Requirement 1, which are otherwise non-waivable under the provisions of Section 19.040.050(A)(4), may be waived:
 - a. In accordance with the provisions of Section 19.040.050(A)(4) for any establishment which is proposed to be located on a parcel within the Downtown Casino Overlay District;
 - b. In accordance with the applicable provisions of the "Town Center Development Standards Manual" for any establishment which is proposed to be located within the T-C (Town Center) zoning district and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan;
 - c. In connection with a proposed establishment having between 20,000 square-feet and 50,000 square-feet of retail floor space, if no more than 10 percent of the retail floor space is regularly devoted to the display or merchandising of alcoholic beverages; or

- d. In connection with a retail establishment having less than 20,000 square-feet of retail floor space, if the area to be used for the sale, display, or merchandising of alcoholic beverages and each use to be protected are separated by a highway or a right-of-way with a width of at least 100 feet.

The proposed use is in conformance with the minimum Special Use Requirements for a Beer/Wine/Cooler Off-Sale Establishment.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The M (Industrial) zoning district is complimentary to the General Plan designation of LI/R (Light Industry/Research). The proposed Beer/Wine/Cooler Off-Sale Establishment within a General Retail Store (Convenience Store) is a compatible use with neighboring commercial and residential uses. This proposed Beer/Wine/Cooler Off-Sale Establishment is accessory to an existing General Retail Store; therefore, the proposed use will be compatible and harmonious with the existing land use and with future surrounding land uses.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The site is physically suitable for this type of use and the intensity is appropriate in this area. Ample site access is provided and adequate parking is being provided for this use. As the Beer/Wine/Cooler Off-Sale Establishment is an accessory use to the existing General Retail Store, the impact will not exceed that of the primary use.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

The subject site is can be accessed by East Charleston Boulevard, a 100-foot Primary Arterial as depicted within the Master Plan for Streets and Highways, or by using 30th Street, a 60-foot wide local street. Both streets are sufficient to accommodate the amount of vehicular trips associated with the proposed use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The proposed use will not result in detrimental effects to the human health and public safety as the project must comply with Chapter 6.50 of the Municipal Code, as well as Section 268.090 of the Nevada Revised Statutes, which further governs the sale and distribution of alcoholic beverages.

5. **The use meets all of the applicable conditions per Title 19.04.**

The proposed use conforms to the Minimum Special Use Requirements for a Beer/Wine/Cooler Off-Sale Establishment use.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 12

SENATE DISTRICT 10

NOTICES MAILED 173 by City Clerk

APPROVALS 1

PROTESTS 1